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Lawrence Giacometto, & Robert Giacometto

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MONTANA
BILLINGS DIVISION

Denbury Green-Pipeline-Montana, LLC)
Plaintiff,)

v.)

Case No. 1:18-cv-00104-SPW-TJC

Easements and Rights of Way Across)

Township 7 South, Range 56 East)
Section 21: NW4SW4, S2NW4,)
NE4NW4, NW4NE4)
Carter County, Montana)

ANSWER OF
COOK RANCH TRUST,
LAWRENCE GIACOMETTO,
AND ROBERT GIACOMETTO
TO COMPLAINT

Township 8 South, Range 56 East)
Section 15: NW4NW4)
Carter County, Montana)

AND

Township 8 South, Range 56 East)
Section 10: W2SW4, NE4SW4,)
E2NW4, NW4NE4)
Carter County, Montana)

JURY DEMAND

The Cook Ranch Trust, Lawrence)
Giacometto, Robert Giacometto,)

and Unknown Others,)

Defendants..)

The Cook Ranch Trust, Lawrence Giacometto, and Robert Giacometto (hereafter “Giacomettos”) DENY, as a GENERAL DENIAL, all allegations in the complaint, including jurisdictional facts alleged, except those separately answered in the paragraphs that follow:

1. Answering ¶ 2 of the Complaint, upon information and belief, the Giacomettos ADMIT only that Plaintiff has filed an acceptance to the provisions of Mont. Code Ann. § 69-13-101 et. seq., which was accepted by the Montana Public Service Commission. The Giacomettos DENY that Plaintiff is a common carrier.

2. Answering ¶ 4 of the Complaint, the Giacomettos ADMIT only that that they own in fee

Township 7 South, Range 56 East
Section 21: NW4SW4, S2NW4, NE4NW4, NW4NE4
Carter County, Montana

3. Answering ¶ 7 of the Complaint, the Giacomettos ADMIT only that Denbury is working with the Bureau of Land Management to prepare an Environmental Assessment. The Giacomettos DENY that Plaintiff has or will obtain the necessary approvals for the CAA Lateral Pipeline.

4. Answering ¶ 9 of the Complaint, upon information and belief, the Giacomettos ADMIT the allegations in this paragraph.

5. Answering ¶ 11 of the Complaint, the Giacomettos ADMIT that venue is proper in this Court (assuming proper jurisdiction). The Giacomettos DENY that jurisdiction is proper.

6. Answering ¶ 17 of the Complaint, the Giacomettos ADMIT only ¶¶ 17 and 17A. The Giacomettos DENY ¶ 17B for lack of knowledge.

AFFIRMATIVE DEFENSES

7. Plaintiff's complaint fails to state a claim upon which relief can be granted.

8. This Court lacks subject matter jurisdiction because, among other reasons, the amount in controversy does not exceed \$75,000.

9. Plaintiff lacks authority to condemn property because it is not a common carrier.

10. Plaintiff lacks authority to condemn the Giacomettos' property for its pipeline because the pipeline is for Plaintiff's own private use, rather than for public use.

11. Plaintiff lacks authority to condemn the Giacomettos' property because the property is not yet, and may never become, necessary for Plaintiff's pipeline.

12. The proposed taking is not compatible with the greatest public good and the least private injury, and the interest sought is not the minimum necessary interest.

13. This case should be dismissed because the controversy is not ripe.

JURY DEMAND

14. Pursuant to Rule 71.1(k) of the Federal Rules of Civil Procedure, the Giacomettos hereby demand trial by jury in this action pursuant to Montana state law as to all issues so triable.

Dated this 2nd day of August, 2018.

BRAATEN LAW FIRM

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